

**NOTICE OF INTENT TO ACT UPON TEMPORARY¹ REGULATION
AND
HEARING AGENDA**

Notice of Hearing for the Adoption, Amendment or Repeal of Regulations of
The Department of Business and Industry, Division of Insurance

The State of Nevada, Department of Business and Industry, Division of Insurance (“Division”), (775) 687-0700, will hold a public hearing at **1:00 p.m. on November 29, 2016**, in the 1st Floor Hearing Room at the Division’s offices located at 1818 East College Parkway, Suite 103, Carson City, Nevada 89706. Interested persons may also participate through a simultaneous videoconference conducted in the 3rd floor conference room, at the Division’s offices located in the Bradley Building, 2501 East Sahara Avenue, Suite 302, Las Vegas, Nevada 89104. The purpose of the hearing is to receive comments from all interested persons regarding the adoption, amendment or repeal of the regulation(s) that pertain(s) to **chapter(s) 687B** of the Nevada Administrative Code (“NAC”).

The following information is provided pursuant to the requirements of Nevada Revised Statute (“NRS”) 233B.0603 and the directives of the Governor:

LCB File No. T007-16. Network Adequacy Plan Year 2018.

A REGULATION relating to insurance; establishing certain requirements relating to the adequacy of a network plan issued by a carrier; and establishing provisions relating to the determination by the Commissioner of Insurance of whether a network plan is adequate.

- (1) Why is the temporary regulation necessary and what is its purpose?

The temporary regulation is necessary to comply with the requirement that the Commissioner issue the network adequacy standards required of all network plans. See NRS 687B.490 and R049-14. The purpose of the temporary regulation is to establish network adequacy standards for network plans.

- (2) What are the terms or substance of the proposed regulation?

The temporary regulation establishes the standards for network plans, which consist of (1) the Centers for Medicare and Medicaid Services (“CMS”) standards set out in the most recent iteration of the Letter to Issuers; (2) the mandates set out in Nevada law; and (3) standards for pediatric providers.

- (3) What is the anticipated impact of the temporary regulation on the problem(s)?

¹ NRS 233B.063(3) An agency may adopt a temporary regulation between August 1 of an even-numbered year and July 1 of the succeeding odd-numbered year without following the procedure required by this section and NRS 233B.064, but any such regulation expires by limitation on November 1 of the odd-numbered year. A substantively identical permanent regulation may be subsequently adopted.

The temporary regulation establishes standards to more readily determine whether network plans are adequate to meet member needs, which, in turn, will ensure that consumers of health network plans will have adequate access to certain health care providers in Nevada. The temporary regulation is a starting point for evolving network adequacy standards in the future as more data about health care providers and consumer health needs becomes available as a result of the implementation of these 2018 standards of network adequacy.

- (4) Do other regulations address the same problem(s)? *No.*
- (5) Are alternate forms of regulation sufficient to address the problem(s)? *No.*
- (6) What value does the temporary regulation have to the public?

The temporary regulation provides standards for measuring the network adequacy of a 2018 network plan to ensure consumers of health plans can reasonably access certain providers.

- (7) What is the anticipated economic benefit of the regulation?

- a. Public

- 1. Immediate: *Once implemented, policyholders should be able to more reasonably access appropriate care with in-network providers.*

- 2. Long Term: *As the network adequacy requirements are updated each year, they should provide a more broad base of "in network" healthcare providers and access thereto. By providing a more broad base of "in network" healthcare providers and access thereto, policyholders should experience lower out-of-pocket costs.*

- b. Insurance Business

- 1. Immediate: *None*

- 2. Long Term: *Health insurance carriers will be able to better measure member needs and use of health care providers to design network plans.*

- c. Small Businesses

- 1. Immediate: *None*

- 2. Long Term: *Health care providers that qualify as small businesses may have more opportunities, options, or negotiating power.*

- d. Small Communities

- 1. Immediate: *None*

- 2. Long Term: *If consumers are better able to access health care services through their insurance, there may be less reliance on other health care options that are more expensive or that clog up the resources in small communities.*

- e. Government Entities

- 1. Immediate: *None*

- 2. Long Term: *None*

(8) What is the anticipated adverse impact, if any?

a. Public

1. Immediate: *As health insurance carriers obtain experience data, there may be a learning curve that may impact members' abilities to access care as quickly as hoped.*

2. Long Term: *Although network adequacy requirements will be issued each year, this does not guarantee that every healthcare provider sought by a policyholder will always be an "in-network" provider. As a result, the policyholder may still be responsible for paying some additional amounts out-of-pocket for an "out-of-network" provider.*

b. Insurance Business

1. Immediate: *The health insurance carriers will be required to demonstrate the adequacy of their network plans based on the network adequacy standards in the temporary regulation. Carriers will likely have to adjust their network plans to meet policyholder needs. Carriers may have to add additional healthcare providers to their current network plan designs.*

2. Long Term: *Once carriers establish the relevant number and types of healthcare providers necessary to meet the network adequacy requirements, the impact on carriers will be better known. Data will be gathered by the Division through its annual review of performance of a carrier's network plan. This data can then be studied to better predict long-term effects of certain network adequacy requirements.*

c. Small Businesses

1. Immediate: *No adverse impact is anticipated by this regulation.*

2. Long Term: *No adverse impact is anticipated by this regulation.*

d. Small Communities

1. Immediate: *No adverse impact is anticipated by this regulation.*

2. Long Term: *No adverse impact is anticipated by this regulation.*

e. Government Entities

1. Immediate: *No adverse impact is anticipated by this regulation.*

2. Long Term: *No adverse impact is anticipated by this regulation.*

(9) What is the anticipated cost of the regulation, both direct and indirect?

a. Enactment: *The Division already has in place procedures for certifying the network adequacy of a network plan and does not anticipate a direct cost to promulgate the temporary regulation. NRS 687B.490(6) requires that any expense borne by the Division in determining the adequacy of a network plan be assessed against the insurance carrier applying for the network plan approval.*

b. Enforcement: *The Division anticipates no additional costs. NRS 687B.490(6) requires that any expense borne by the Division in determining the adequacy of a network plan be assessed against the insurance carrier applying for the network plan approval.*

c. Compliance: *The Division anticipates no additional costs. NRS 687B.490(6)*

requires that any expense borne by the Division in determining the adequacy of a network plan be assessed against the insurance carrier applying for the network plan approval.

(10) Does the regulation establish a new fee or increase an existing fee? *No.*

(11) Provide a statement which identifies the methods used by the agency in determining the impact of the proposed regulation on a small business, prepared pursuant to subsection 3 of NRS 233B.0608.

The Division of Insurance reached out to the Las Vegas Metro, the North Nevada, and the Elko Area Chambers of Commerce and, as of this date, has received no comments from their members. During the two-year process of promulgating the network adequacy regulation, which involved numerous parties, comments, and meetings, the Division received no comments that suggest the quantifying network adequacy standards in a regulation would negatively impact small businesses. The Division has also conducted extensive analysis and research of network adequacy standards to determine its reach.

(12) Provide a description of any regulations of other state or local governmental agencies which the proposed regulation overlaps or duplicates, and a statement explaining why the duplication or overlapping is necessary. If the regulation overlaps or duplicates a federal regulation, state the name of the regulating federal agency.

There are no other regulations that overlap or duplicate the temporary regulation.

(13) If the regulation is required pursuant to federal law, provide a citation and description of the federal law.

There are no federal regulations that address the requirements in the temporary regulation for all network plans in the individual and small group markets.

(14) If the regulation includes provisions which are more stringent than a federal regulation that regulates the same activity, provide a summary of such provisions.

There are no federal regulations that address the requirements in the temporary regulation for all network plans in the individual and small group markets.

Persons wishing to comment upon the proposed action of the Division may appear at the scheduled public hearing or may address their comments, data, views or arguments, in written form, to the Division, 1818 East College Parkway, Suite 103, Carson City, Nevada 89706. **Written submissions must be received by the Division on or before November 7, 2016.** If no person who is directly affected by the proposed action appears to request time to make an oral presentation, the Division may proceed immediately to act upon any written submissions.

A copy of this Notice and the regulation will be on file at the State Library, 100 North Stewart Street, Carson City, Nevada, for inspection by members of the public during business hours. Additional copies of the notice and the regulation will be available at the offices of the Division, 1818 East College Parkway, Suite 103, Carson City, Nevada 89706, and 2501 East Sahara Avenue, Suite 302, Las Vegas, Nevada 89104, and in all counties in which an office of the agency is not maintained, at the main public library, for inspection and copying by members of the public during business hours. This Notice and the text of the proposed regulation are also available in the State of Nevada Register of Administrative Regulations, which is prepared and published monthly by the Legislative Counsel Bureau pursuant to NRS 233B.0653, and on the Internet at <http://leg.state.nv.us/register/>. Copies of this notice and the proposed regulation will be mailed to members of the public upon request. A reasonable fee may be charged for copies if it is deemed necessary. This does not apply to a public body subject to the Open Meeting Law.

Upon adoption of any regulation, the agency, if requested to do so by an interested person, either before adoption or within 30 days thereafter, shall issue a concise statement of the principal reasons for and against its adoption, and incorporate therein its reason for overruling the consideration urged against its adoption.

Notice of the hearing was provided via electronic means to all persons on the agency's e-mail list for administrative regulations, and this Notice of Intent to Act Upon Regulation was posted to the agency's Internet Web site at <http://doi.nv.gov/> and was provided to or posted at the following locations:

Department of Business and Industry
Division of Insurance
1818 East College Parkway, Suite 103
Carson City, Nevada 89706

Department of Business and Industry
Division of Insurance
2501 East Sahara Avenue, Suite 302
Las Vegas, Nevada 89104

Legislative Building
401 South Carson Street
Carson City, Nevada 89701

Grant Sawyer Building
555 East Washington Avenue
Las Vegas, Nevada 89101

Blasdel Building
209 East Musser Street
Carson City, Nevada 89701

Capitol Building Main Floor
101 North Carson Street
Carson City, Nevada 89701

Nevada Department of Employment,
Training and Rehabilitation
2800 E. Saint Louis Ave.
Las Vegas, NV 89104

Nevada State Library & Archives
100 North Stewart Street
Carson City, Nevada 89701

Carson City Library
900 North Roop Street
Carson City, Nevada 89701

Churchill County Library
553 South Main Street
Fallon, Nevada 89406

Douglas County Library
P.O. Box 337
Minden, Nevada 89423

Elko County Library
720 Court Street
Elko, Nevada 89801

Esmeralda County Library
P.O. Box 430
Goldfield, Nevada 89013

Eureka Branch Library
P.O. Box 293
Eureka, Nevada 89316

Humboldt County Library
85 East 5th Street
Winnemucca, Nevada 89445

Lander County Library
P.O. Box 141
Battle Mountain, Nevada 89820

Las Vegas-Clark County Library District
7060 W. Windmill Lane
Las Vegas, NV 89113

Lincoln County Library
P.O. Box 330
Pioche, Nevada 89043-0330

Lyon County Library
20 Nevin Way
Yerington, Nevada 89447

Mineral County Public Library
P.O. Box 1390
Hawthorne, Nevada 89415

Pershing County Library
P.O. Box 781
Lovelock, Nevada 89419

Storey County Clerk
P.O. Drawer D
Virginia City, Nevada 89440

Tonopah Public Library
P.O. Box 449
Tonopah, Nevada 89049

Washoe County/Downtown Reno Library
P.O. Box 2151
Reno, Nevada 89505-2151

White Pine County Library
950 Campton Street
Ely, Nevada 89301

Members of the public who would like additional information about the proposed regulation may contact Susan Bell, Legal Secretary, at (775) 687-0704, or via e-mail to suebell@doi.nv.gov.

Members of the public who are disabled and require special accommodations or assistance at the hearing are requested to notify the Commissioner's secretary, in writing, no later than five (5) working days before the meeting: 1818 E. College Parkway, Suite 103, Carson City, Nevada 89706, or suebell@doi.nv.gov.

DATED this 20th day of October, 2016.



BARBARA D. RICHARDSON
Commissioner of Insurance

HEARING AGENDA

The State of Nevada, Department of Business and Industry, Division of Insurance

November 29, 2016 • 1:00 p.m.

Location of Hearing:

Office of the Division of Insurance
1818 E. College Pkwy., 1st Floor Hearing Room
Carson City, NV 89706
(Division Offices located in Suite 103)

Available via Videoconference at:

Office of the Division of Insurance
2501 E. Sahara Ave., 3rd Floor Conference Room
Las Vegas, NV 89104
(Division Offices located in Suite 302)

1. **Call to Order.**
2. **Presentation, Discussion and Adoption of Proposed Regulation. (For Possible Action)**
LCB File No. T007-16. Network Adequacy Plan Year 2018.
A REGULATION relating to insurance; establishing certain requirements relating to the adequacy of a network plan issued by a carrier; and establishing provisions relating to the determination by the Commissioner of Insurance of whether a network plan is adequate.
3. **Public Comment.**
4. **Adjournment.**

Supporting public material for this meeting may be requested from Susan Bell, Legal Secretary, Nevada Division of Insurance, 1818 E. College Parkway, Carson City, Nevada 89706, (775) 687-0704, or suebell@doi.nv.gov.

Note: Any agenda item may be taken out of order; items may be combined for consideration by the public body; and items may be pulled or removed from the agenda at any time. The Hearing Officer, within his/her discretion, may allow for public comment on individual agenda items. Public Comment may be limited to three minutes per speaker.

Members of the public are encouraged to submit written comments for the record.

We are pleased to make reasonable accommodations for attendees with disabilities. Please notify the Commissioner's secretary, in writing, no later than five (5) working days before the meeting: 1818 E. College Parkway, Suite 103, Carson City, Nevada 89706, or suebell@doi.nv.gov.

NOTICES FOR THIS MEETING HAVE BEEN POSTED IN ACCORDANCE WITH NRS 241 AT THE FOLLOWING LOCATIONS:

Nevada Division of Insurance, 1818 E. College Parkway, Suite 103, Carson City, Nevada 89706

Nevada Division of Insurance, 2501 E. Sahara Avenue, Suite 302, Las Vegas, Nevada 89104

Nevada State Legislative Building, 401 S. Carson Street, Carson City, Nevada 89701

Grant Sawyer State Office Building, 555 E. Washington Avenue, Las Vegas, Nevada 89101

Blasdel State Office Building, 209 E. Musser Street, Carson City, Nevada 89701

Nevada State Capitol, 101 N. Carson Street, Carson City, Nevada 89701

Nevada Dept. of Employment, Training and Rehabilitation, 2800 E. Saint Louis Avenue, Las Vegas, Nevada 89104

The Nevada State Legislature Website (www.leg.state.nv.us)

The Nevada Division of Insurance Website (www.doi.nv.gov)

The State of Nevada Website (www.nv.gov)

**STATE OF NEVADA
DEPARTMENT OF BUSINESS & INDUSTRY
DIVISION OF INSURANCE**

Determination of Necessity - Small Business Impact Statement

LCB File No. T007-16
NETWORK ADEQUACY PLAN YEAR 2018

A temporary regulation relating to insurance; establishing certain requirements relating to the adequacy of a network plan issued by a carrier; and establishing provisions relating to the determination by the Commissioner of Insurance of whether a network plan is adequate.

EFFECTIVE DATE OF REGULATION:
January 1, 2018

1. BACKGROUND

Chapter 687B of NAC was amended, under LCB file number R049-14, to add provisions relating to the adequacy of a network plan.

The temporary regulation complies with the requirement that the Commissioner issue the network adequacy standards required of all network plans. The purpose of the temporary regulation is to establish network adequacy standards for plan year 2018 network plans.

2. DESCRIPTION OF SOLICITATION

The Division of Insurance drafted a survey requesting respondents self-identify as a statutory small business and provide feedback concerning the effects of the proposed temporary regulation on business. The survey consisted of the following questions.

1. "Do small businesses offer a health insurance plan with an in-network benefit to their employees? If so, what is the percentage of small businesses that offer this type of product to their employees?"
2. "Do small businesses plan to offer a health insurance plan with an in-network benefit to their employees for plan year 2018? If so, what is the percentage of small businesses that plan to offer this type of product to their employees for plan year 2018?"

The survey was sent to the Las Vegas Metro, the North Nevada, and the Elko Area Chambers of Commerce for distribution to their members. A response was requested by the close of business on Tuesday, October 18, 2016. To date the Division has not received any comments. The Division will continue to solicit comments from the small business community during the workshop and hearing process. The Division will update the small business impact during this process to include any feedback received.

3. DOES THE PROPOSED TEMPORARY REGULATION IMPOSE A DIRECT AND SIGNIFICANT ECONOMIC BURDEN UPON A SMALL BUSINESS OR DIRECTLY RESTRICT THE FORMATION, OPERATION OR EXPANSION OF A SMALL BUSINESS? (NRS 233B.0608.1)

☒ NO (answer #4)

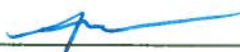
☐ YES (skip to #5)

4. HOW WAS THAT CONCLUSION REACHED? (NRS 233B.0608.3)

The Division of Insurance has reached out to the Las Vegas Metro, the North Nevada, and the Elko Area Chambers of Commerce, but has received no response to the survey. Based on analysis done by Division staff, the Division anticipates the impact of the proposed regulation on small business to be minimal to none given that many network plans currently offer the benefits to be measured. Further, during the two-year process of promulgating the network adequacy regulation, which involved numerous parties, comments, and meetings, the Division received no comments that suggest that the quantifying network adequacy standards in the regulation would cause the relevant impact on small businesses. The Division has also conducted extensive analysis and research of network adequacy standards to determine its reach.

I, BARBARA D. RICHARDSON, Commissioner of Insurance for the State of Nevada, hereby certify to the best of my knowledge or belief a concerted effort was made to determine the impact of the proposed regulation on small businesses and that this statement was prepared properly and the information contained herein is accurate. (NRS 233B.0608.3)

10/26/16
(DATE)


BARBARA D. RICHARDSON
Commissioner of Insurance

Small Business Impact Statement

LCB File No. T007-16
NETWORK ADEQUACY PLAN YEAR 2018

5. SUMMARY OF COMMENTS RECEIVED FROM SMALL BUSINESSES (NRS 233B.0609.1.a)

Comment: Received a question regarding the network adequacy of hospitals. The commenter wanted clarification from the Division about whether a facility would have to offer the services listed in NRS 449.012 in order to meet the criteria of being a hospital.

Other interested parties may receive a copy of this summary by contacting Kim Everett, Assistant Chief, Life and Health Section, Nevada Division of Insurance, at (775) 687-0735 or keverett@doi.nv.gov.

6. ESTIMATED ECONOMIC EFFECT ON SMALL BUSINESSES THE REGULATION IS TO REGULATE
(NRS 233B.0609.1.c)

The Division does not anticipate a direct or significant economic burden on small businesses. Health care providers that qualify as small businesses may, as a result of the regulation, have more opportunities, options, or negotiating power.

7. METHODS CONSIDERED TO REDUCE IMPACT ON SMALL BUSINESSES (NRS 233B.0609.1.d)
No method considered as no impact anticipated.

8. ESTIMATED COST OF ENFORCEMENT (NRS 233B.0609.1.e)

The Division anticipates no additional costs. NRS 687B.490(6) requires that any expense borne by the Division in determining the adequacy of a network plan be assessed against the insurance carrier applying for the network plan approval.

9. FEE CHANGES (NRS 233B.0609.1.f)
None.

10. DUPLICATIVE PROVISIONS (NRS 233B.0609.1.g)

There are no other regulations that overlap or duplicate the temporary regulation.

11. HOW WAS THE ANALYSIS CONDUCTED? (NRS 233B.0609.1.b)

Subject matter experts reviewed and studied data, comments, and reports collected related to network adequacy and considered implications as a result of different scenarios.

12. REASONS FOR CONCLUSIONS (NRS 233B.0609.1.h)

Health benefits added by the temporary regulation are already offered by many network plans in Nevada. The temporary regulation codifies the standards to ensure all network plans meet the minimum network provisions for consumers.

I, BARBARA D. RICHARDSON, Commissioner of Insurance for the State of Nevada, hereby certify to the best of my knowledge or belief a concerted effort was made to determine the impact of the proposed regulation on small businesses and that this statement was prepared properly and the information contained herein is accurate. (NRS 233B.0609.2)

10/26/16
(DATE)

BARBARA D. RICHARDSON
Commissioner of Insurance

**PROPOSED TEMPORARY REGULATION OF THE
COMMISSIONER OF INSURANCE**

LCB File No. T007-16

October 13, 2016

EXPLANATION – Matter in *italics* is new; matter in brackets ~~[omitted material]~~ is material to be omitted.

AUTHORITY: §§1-29, NRS 679B.130 and 687B.490; §30, NRS 679B.130, 695C.130 and 695C.275.

A REGULATION relating to insurance; establishing certain requirements relating to the adequacy of a network plan issued by a carrier; and establishing provisions relating to the determination by the Commissioner of Insurance of whether a network plan is adequate.

Section 1. Section 9 of LCB File No. R049-14 is hereby amended to read as follows:

Sec. 9. 1. For the purpose of determining the adequacy of a network plan made available for sale in this State, ~~[the Commissioner]~~ *a network plan must contain, at a minimum, the following:*

- (a) ~~[h]~~ Hereby adopts by reference the standards contained in the *latest version of the ~~[2017]~~ Letter to Issuers in the Federally-facilitated Marketplaces* issued by the Centers for Medicare and Medicaid Services of the United States Department of Health and Human Services. A copy of the letter may be obtained free of charge at the Internet address <https://www.cms.gov/CCIIO/resources/regulations-and-guidance/>~~[7]~~.
- (b) *The provisions of NRS 689A.0435, 689C.1655, 695C.1717, and 695G.1645; and*
- (c)

<i>Specialty Area</i>	<i>Maximum Time and Distance Standards (Minutes/Miles)</i>			
	<i>Metro</i>	<i>Micro</i>	<i>Rural</i>	<i>Counties with Extreme Access</i>

				<i>Considerations(CEAC)</i>
<i>Pediatrics</i>	<i>25/15</i>	<i>30/20</i>	<i>40/30</i>	<i>105/90</i>

2. Upon the issuance of a new *Letter to Issuers in the Federally-facilitated Marketplaces*, the Commissioner will determine whether the requirements of sections 2 to 18, inclusive, of this regulation, including, without limitation, the standards adopted by reference in subsection 1, conform with any similar standards prescribed in the new *Letter to Issuers in the Federally-facilitated Marketplaces*. If the Commissioner determines that the requirements of sections 2 to 18, inclusive, of this regulation do not conform with any similar standards prescribed in the new *Letter to Issuers in the Federally-facilitated Marketplaces*, the Commissioner will hold a public hearing concerning possible amendments to sections 2 to 18, inclusive, of this regulation and give notice of that hearing in accordance with NRS 233B.060 at least 30 days before the date of the hearing.